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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,840

03/26/2004

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54022.4600

2839

20322 7590 01/23/2009  
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EXAMINER

KAMAL, SHAHID

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

01/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/708,840	<b>Applicant(s)</b> BEENAU ET AL.	
	<b>Examiner</b> SHAHID KAMAL	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,7,9 and 11-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,7,9 and 11-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/26/2008, 11/24/2008</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application AFTER FINAL rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the FINALITY of the previous Office action has been WITHDRAWN pursuant to 37 CFR 1.114. Applicant's submission filed on 13 October 2008 has been entered.

### *Acknowledgements*

2. Claims 1, 4, 6-7, 9 and 11-28 are now pending in this application and have been examined.
3. The following is a NON-FINAL Office Action in response to the communication received on 13 October 2008.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 6-7, 9 and 11-28 are rejected under 35 U.S.C. 102(e) as anticipated by Stockhammer et al. (US Patent No. 6,799,726 B2) (“Stockhammer”).

Referring to claim 1, Stockhammer discloses the following:

- a) detecting a said biometric sample at a biometric sensor (sensor 3) to create biometric sample data (“biometric data”) (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6);
- b) associating said biometric sample data (“biometric data”) with at least one of a Radio Frequency (RF) device (wristwatch 1), a user identifier, or a transaction account (see abstract, column 4, lines 1-11, column 4, claim 6);
- c) verifying said biometric sample data (“biometric data”) in order to activate said RF device (wristwatch 1) (see abstract, column 4, lines 1-11, column 4, claim 6);
- d) storing said biometric sample as registered biometric sample data (“biometric data”) in response to said verifying said biometric sample data (“biometric data”) (see abstract, column 2, lines 9-34, column 3, lines 35-45, column 3, claim 1);
- e) receiving transaction biometric sample data associated with said RF device (wristwatch 1), wherein said transaction biometric sample data (“biometric data”) is further associated with a transaction request (see column 1, lines 54-67, column 2, lines, 1-67); and
- f) comparing authorizing said transaction request when said transaction biometric sample data (“biometric data”) to said registered biometric sample data (“biometric data”) to facilitate authorization of said transaction request (see abstract, column 2, lines 36-67).

Referring to claim 4, Stockhammer discloses wherein said detecting said biometric sample data includes at least one of detecting, associating, or processing additional biometric sample

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data (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 6, Stockhammer discloses wherein said verifying said biometric sample data comprises comparing said biometric sample data with stored biometric sample data (see abstract, column 2, lines 9-34, column 3, lines 35-45, column 3, claim 1).

Referring to claim 7, Stockhammer discloses wherein said comparing said biometric sample data with said stored biometric sample data includes comparing said biometric sample data with at least one of authorized biometric sample data or unauthorized biometric sample data (see abstract, column 2, lines 36-67).

Referring to claim 9, Stockhammer discloses wherein said verifying said biometric sample data includes verifying said biometric sample data using at least one of a protocol/sequence controller or a third-party security vendor (see abstract, column 2, lines 9-34, column 3, lines 35-45, column 3, claim 1).

Referring to claim 11, Stockhammer discloses wherein said storing said biometric sample data includes storing said biometric sample data in at least one of a local database, a remote database, or a third-party controlled database (see abstract, column 2, lines 9-34, column 3, lines 35-45, column 3, claim 1).

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Referring to claim 12, Stockhammer discloses wherein said verifying said biometric sample data comprises comparing said biometric sample data with verification biometric sample data received from said RF device (see abstract, column 2, lines 9-34, column 3, lines 35-45, column 3, claim 1).

Referring to claim 13, Stockhammer discloses wherein said biometric sensor comprises at least one of: a retinal scan sensor, an iris scan sensor, a fingerprint sensor, a hand print sensor, a hand geometry sensor, a voice print sensor, a vascular sensor, a facial sensor, an ear sensor, a signature sensor, a keystroke sensor, an olfactory sensor, an auditory emissions sensor, or a DNA sensor (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 14, Stockhammer discloses wherein said biometric sample comprises a biometric sample characteristic comprising at least one of: blood flow, correctly aligned ridges, pressure, motion, body heat, ridge endings, bifurcation, lakes, enclosures, short ridges, dots, spurs, crossovers, pore size, pore location, loops, whorls, or arches (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 15, Stockhammer discloses personal information, financial information, loyalty point information, employee information, employer information, medical information, or family information (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 16, Stockhammer discloses associating second biometric sample data with at least one of a second RF device, a user identifier, or a transaction account (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 17, Stockhammer discloses wherein said biometric sensor is associated with at least one of: a local database, a remote database, a portable storage device, a host system, an issuer system, a merchant system, a fob issuer system, an employer, a financial institution, a non-financial institution, a loyalty point provider, a company, the military, the government, a school, a travel entity, a transportation authority, or [[and]] a security company (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-24, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 18, Stockhammer discloses the following:

- a) transmitting a device authentication code from a sample receiver to said RF device (see abstract, column 2, lines 36-67);
- b) receiving an encrypted device authentication code, second biometric sample data, and a unique device identification code from said RF device (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6);

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c) decrypting said encrypted device authentication code using a unique device decryption key corresponding to said unique device authentication code (see abstract, column 2, lines 36-67);

d) comparing said decrypted device authentication code to said device authentication code (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6); and

e) authenticating said RF device in response to when said second biometric sample data matching said registered biometric sample data and in response to said decrypted device authentication code matching said device authentication code (see abstract, column 2, lines 36-67).

Referring to claim 19, Stockhammer discloses receiving an encrypted device account code from said RF device (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6); decrypting said encrypted device account code using said unique device decryption key (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6); and transmitting said decrypted device account code to facilitate an RF transaction (see abstract, column 2, lines 36-67).

Referring to claim 20, Stockhammer discloses receiving a reader authentication code from said RF device (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6); encrypting said reader authentication code using a



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reader encryption key to create an encrypted reader authentication code (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6); and transmitting said encrypted reader authentication code to said RF device for authentication of said sample receiver (see abstract, column 2, lines 36-67).

Referring to claim 21, Stockhammer discloses the following:

a) a biometric sensor configured to detect a biometric sample to create biometric sample data, wherein said biometric sample data is associated with at least one of an RF device, a user identifier, or a transaction account (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6);

b) database configured to store said biometric sample data as registered biometric sample data in response to said ASR verifying said biometric sample data, wherein said ASR is configured to activate said RF device in response to said ASR verifying said biometric sample data (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6);

c) a communications device configured to receive transaction biometric sample data associated with said RF device, wherein said transaction biometric sample data is further associated with a transaction request (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6); and

d) an authentication circuit configured to compare said transaction biometric sample data to said registered biometric sample data to facilitate authorization of said transaction request (see

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abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 22, Stockhammer discloses wherein said transaction request further comprises an encrypted device account code and an RF device identification code (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 23, Stockhammer discloses wherein said authentication circuit is further configured to select a device decryption key from a plurality of device-specific decryption keys by associating said RF device identification code with said device decryption key, and wherein said authentication circuit is further configured to use said unique device decryption key to decrypt said encrypted device account code to create a decrypted device account code (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 24, Stockhammer discloses wherein said decrypted device account code comprises a device account number in a magnetic stripe format configured to be transmitted to a Point of Sale (POS) device and processed under a business as usual standard for a merchant (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

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Referring to claim 25, Stockhammer discloses comprising an RFID reader PIN interface configured to receive a secondary verification (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 26, Stockhammer discloses wherein said communications device is further configured to transmit a device authentication code to said RF device, receive an encrypted device authentication code from said RF device, and decrypt said encrypted device authentication code using said unique device decryption key in--or-tier to authenticate said RF device (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 27, Stockhammer discloses wherein said communications device is further configured to receive an ASR authentication code from said RF device, encrypt said ASR authentication code, and transmit said encrypted ASR authentication code to said RF device in order to facilitate authentication of said ASR (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

Referring to claim 28, Stockhammer discloses a USB interface configured to at least one of communicate with said RF device or personalize said RF device (see abstract, column 1, lines 1-24, 55-67, column 2, lines 1-67, column 3, lines 35-45, column 3, claim 1, column 4, claim 6).

**Examiner's Note:**

6. The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the patent examiner should be directed to Shahid Kamal whose telephone number is (571) 270-3272. The Patent examiner can normally be reached on Monday-Thursday (9:00am -7:00pm), Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for this origination where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-directed.uspto.gov>.

Should you have any questions on accessing to the Private PAIR system, contact the Electronic Business Center (EBC) at 1(866) 217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 1(800) 786-9199 (IN USA OR CANADA) or 1(571) 272-1000.

Shahid Kamal  
December 31, 2008

/EVENS J. AUGUSTIN/  
Primary Examiner, Art Unit 3621